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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,397	09/05/2003	Harry Herzog	440070.401	8532

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EXAMINER

LARSON, JUSTIN MATTHEW

ART UNIT	PAPER NUMBER
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3782

MAIL DATE	DELIVERY MODE
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08/22/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/656,397	HERZOG, HARRY	
	Examiner	Art Unit	
	Justin M. Larson	3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-32 and 34-43 is/are rejected.
- 7) ☒ Claim(s) 33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/2/07 has been entered.

Claim Objections

2. Claim 36 is objected to because it depends from itself. For purpose of examination, Examiner assumes that claim 36 depends from 35.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 39 and 43 rejected under 35 U.S.C. 102(b) as being anticipated by Upshaw (US 5,938,548 A).

Regarding claim 39, Upshaw discloses a support comprising a first strap (22), wherein an inner surface of the first strap has a gripping member (46), and a second strap (24) having a first end (proximate 28) attached to the first strap at a point in a middle region (proximate 54) of the first strap, between first and second ends thereof.

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The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Upshaw which is capable of being used in the intended manner, i.e. the first strap being attached to the nozzle of a blower tube such that the gripping member of the first strap contacted the nozzle tube and prevented sliding of the first strap along the tube and the second strap being attached to a user's wrist to attenuate vibrations from the nozzle tube. There is no structure in Upshaw that would prohibit such functional intended use (see MPEP 2111).

Regarding claim 43, the second strap of Upshaw comprises a resilient member (48) affixed to an inner surface thereof, wherein the resilient member is inherently configured to dampen vibrations.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 27-30 and 35-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iida et al. (US 2002/0174511 A1) in view of Elliot (US 6,598,266 B1).

Regarding claim 27, Iida et al. disclose a power tool system comprising a blower including a blower motor (9), a blower fan (11) coupled to the motor and configured to be driven thereby, and a section of tubing (43) operatively coupled to the fan, through which the fan is configured to drive a stream of air. Iida et al. disclose a handle (44)

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attached to the tubing, but fail to disclose the claimed wrist strap. Elliot, however, teaches that a tool with a handle (D) may further comprise a strap component (C/17a/18), which provides a two-point control for better handling of the tool by the user. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a strap component on the tubing of lida et al. in addition to the handle, as taught by Elliot, in order to allow a user to have two-point control of the tubing for better control. The strap component of the modified lida et al. system can be considered a wrist strap that is capable of being attached to a user's wrist and is configured to reduce the effect of vibration of the motor and fan on the user while the blower is in operation.

Regarding claim 28 and 29, the wrist strap of the modified lida et al. system includes a vibration-damping element (17a) that is coupled to a surface of the wrist strap and is a cushion that can be considered to have a high degree of resiliency to the degree that Applicant has disclosed.

Regarding claim 30, the modified lida et al. system includes a blower strap (C) positioned around the section of tubing, wherein the wrist strap is coupled to the section of tubing via the blower strap. Examiner notes that two accepted definitions of the word "strap" read, "a looped band by which an item may be held, pulled, lifted, etc..." and "a long, narrow object or piece of something; strip, band" (www.dictionary.com). The support (C) as taught by Elliot satisfies both of these definitions and can therefore be considered a strap to the degree claimed.

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Regarding claims 35 and 36, the wrist strap of the modified lida et al. system is length adjustable via hook-and-loop fasteners such that it is capable of being adjustably attached to a user's wrist.

Regarding claim 37, the blower of the modified lida et al. system comprises a backpack frame (2) to which the motor is coupled and by which the user can carry the blower.

Regarding claim 38, the motor of the modified lida et al. system is a gasoline-powered engine ([0025] of lida et al.).

7. Claims 27, 30, 31, and 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over lida et al. in view of Vidal (US 6,732,411 B2).

Regarding claim 27, lida et al. disclose a power tool system comprising a blower including a blower motor (9), a blower fan (11) coupled to the motor and configured to be driven thereby, and a section of tubing (43) operatively coupled to the fan, through which the fan is configured to drive a stream of air. lida et al. disclose a handle (44) attached to the tubing, but fail to disclose the claimed wrist strap. Vidal, however, teaches that a tool with a handle (56) may further comprise a strap component (68/74), which provides control and comfort during use of the tool. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a strap component on the tubing of lida et al. in addition to the handle, as taught by Vidal, in order to provide a user with more control and comfort during use of the tool. The strap component of the modified lida et al. system can be considered a wrist strap that is

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capable of being attached to a user's wrist and is configured to reduce the effect of vibration of the motor and fan on the user while the blower is in operation.

Regarding claim 30, the modified lida et al. system includes a blower strap (68) positioned around the section of tubing, wherein the wrist strap is coupled to the section of tubing via the blower strap.

Regarding claim 31, the manner in which the wrist strap (74) of the modified lida et al. system is fastened to the blower strap (68) is not specified by Vidal. Looking at Figure 20 of Vidal, however, it is clear that stitching is used to construct the strap component. Furthermore, Examiner is of the position that it is old and well known in the art of strap to attach two straps together using stitching, as thread for stitching is cheap and the stitching itself is easy to implement. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the wrist strap (74) of the modified lida et al. system to the blower strap (68) using stitching, since stitching is a cheap and easy to implement.

Regarding claim 34, first and second ends of the blower strap of the modified lida et al. system are held in engagement with each other by hook-and-loop surfaces (72) attached to respective ends thereof.

Regarding claims 35 and 36, the wrist strap of the modified lida et al. system is length adjustable via hook-and-loop fasteners (78) such that it is capable of being adjustably attached to a user's wrist.

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8. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over lida et al. in view of Vidal as applied in paragraph 7 above, and further in view of Moore (US Des. 377,862 S).

The modified lida et al. system includes the claimed features except for there being a buckle extending between the wrist strap (74) and the blower strap (68). Moore, however, teaches that the wrist strap of a tool strap component may include a buckle. It would have been obvious to one having ordinary skill in the art at the time the invention was made to implement a buckle on the wrist strap of the modified lida et al. system, as taught by Moore, in order to provide a length adjustment means in addition to or in place of the hook-and-loop fasteners as taught by Vidal. Such a buckle can be considered to extend between a portion of the wrist strap and the blower strap to the degree claimed.

9. Claims 39-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder, Jr. (US 4,960,280 A) in view of Kristof (US 3,711,868 A).

Regarding claims 39, 41, and 42, Corder, Jr. discloses a golf trainer or support comprising a first torso webbing strap (A), and a second arm strap (4) having a first end attached to the first strap at a point (7) in a middle region of the first strap, between first and second ends thereof. Corder, Jr. fails to disclose the first torso strap having a gripping member on an inner surface thereof. Kristof, however, teaches that the inner surface of a torso strap/band may include elastomeric threads (17) interwoven therein as shown in Figure 1 in order to provide a surface of the strap/band with anti-slip means (col. 1 lines 44-61). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include interwoven elastomeric threads on the first

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strap (A) of Corder, Jr., as taught by Kristof, in order to provide the strap with an anti-slip means that would prevent the strap from inadvertently sliding about a user's torso. Being a training device, a user would want the strap of Corder, Jr. to stay at the same level about their chest so that the same feel or movement would be achieved with each swing.

The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over the modified Corder, Jr. device which is capable of being used in the intended manner, i.e. the first strap being attached to the nozzle of a blower tube such that the gripping member of the first strap contacted the nozzle tube and prevented sliding of the first strap along the tube and the second strap being attached to a user's wrist to attenuate vibrations from the nozzle tube. There is no structure in the modified Corder, Jr. device that would prohibit such functional intended use (see MPEP 2111).

Regarding claim 40, the modified Corder, Jr. device includes a buckle (8), the blower strap (A) extending through a first portion or side of the buckle and a second end of the wrist strap (4) being configured to pass through a second portion or side of the buckle and couple to itself to form an adjustable loop.

10. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Corder, Jr. in view of Kristof, as applied in paragraph 9 above, and further in view of Upshaw.

The modified Corder, Jr. device includes the claimed features except for the wrist strap (4) comprising a resilient member affixed to an inner surface thereof. Upshaw, however, teaches that such a strap (24) may comprise a resilient member (48) affixed to

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an inner surface thereof to make the device more comfortable for a user. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a resilient member on an inner surface of the wrist strap (4) of the modified Corder, Jr. device, as taught by Upshaw, in order to make the device more comfortable for a user.

Allowable Subject Matter

11. Claim 33 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Thursday, 7am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML
8/17/07


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